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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,021	02/04/2002	Gary J. Condon	K-1859	4194

7590

03/31/2004

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EXAMINER

ROSENBAUM, MARK

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,021

Applicant(s)

CONDON, GARY J.

Examiner

Mark Rosenbaum

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

In view of the newly found art, the finality of the previous rejection is hereby withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 12-14, and claim 22, how can a single tooth bottom be attached to both of the drums as claimed?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1,3,20 are rejected under 35 U.S.C. 102(a) as being anticipated by Watajima et al. This patent discloses in figures 1 and 3 a rock crusher assembly having parallel rolls, each roll having teeth 11 attached to the drum of the respective rolls.

Claim Rejections - 35 USC § 103

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Claims 2,4-9,21,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watajima et al in view of Stafford et al. Watajima et al does not use wear members which will result in premature tooth wear. Stafford et al solves this problem by disclosing rock crushing apparatus including the use of inserts on the crushing surface to prolong the useful life of the surface. In order to prevent premature wear, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Watajima et al by providing inserts on the crushing surface, taught to be desirable by Stafford et al. The remaining limitations would then have been obvious design choices based on several factors such as material being treated and desired end results. For example, the height of the insert above the tooth would depend on the size of the material being treated. Also, the exact location of the inserts would be determined by the area of wear found on the tooth.

Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warsmith or Lange in view of Stafford et al. Both Warsmith and Lange disclose crusher teeth not having insert members for wear purposes. This may result in premature wear of the teeth. Stafford et al solves this problem by disclosing rock crushing apparatus including the use of inserts on the crushing surface to prolong the useful life of the surface. In order to prevent premature wear, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify either Warsmith or Lange by providing inserts on the crushing surface, taught to be desirable by Stafford et al. The remaining limitations would then have been obvious design choices based on several factors such as material being treated and desired end results. For example, the height

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of the insert above the tooth would depend on the size of the material being treated.

Also, the exact location of the inserts would be determined by the area of wear found on the tooth.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 703-308-1788. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Ostrager can be reached on 703-308-3136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Rosenbaum
Primary Examiner
Art Unit 3725

MR